

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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MARLOS M. MOORE,

Case No. 3:15-cv-00410-MMD-VPC

v

Plaintiff,

SGT. LEWIS, *et al.*,

ORDER

Defendants.

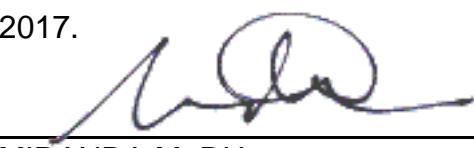
The Court adopted the United States Magistrate Judge Valerie P. Cooke's Report and Recommendation (ECF No. 37) and granted summary judgment in favor of Defendants. (ECF No. 38.) Before the Court is Plaintiff's motion for reconsideration. (ECF No. 45.) Defendants have opposed. (ECF No. 47.)

A motion to reconsider must set forth “some valid reason why the court should reconsider its prior decision” and set “forth facts or law of a strongly convincing nature to persuade the court to reverse its prior decision.” *Frasure v. United States*, 256 F.Supp.2d 1180, 1183 (D. Nev. 2003). Reconsideration is appropriate if this Court “(1) is presented with newly discovered evidence, (2) committed clear error or the initial decision was manifestly unjust, or (3) if there is an intervening change in controlling law.” *Sch. Dist. No. 1J v. Acands, Inc.*, 5 F.3d 1255, 1263 (9th Cir. 1993). “A motion for reconsideration is not an avenue to re-litigate the same issues and arguments upon which the court already has ruled.” *Brown v. Kinross Gold, U.S.A.*, 378 F.Supp.2d 1280, 1288 (D. Nev. 2005).

1 Plaintiff argues that he has discovered new evidence in the form of a newspaper
2 article published in the Las Vegas Sun discussing the problems of mold in state
3 buildings, including the Southern Desert Correctional Center ("SDCC") where Plaintiff
4 was incarcerated. (ECF No. 45 at 3-6.) As Defendants correctly point out, however, the
5 Las Vegas Sun article was published in 2003 and addressed mold issues that were
6 remediated and does not relate to any mold issues in the housing units at SDCC. (ECF
7 No. 47 at 3.) Plaintiff's claims involved ailments allegedly caused by mold in cell units at
8 SDCC between 2012 and 2013. (ECF No. 5 at 3-4.) In granting summary judgment in
9 favor of Defendants, the Court found that Plaintiff failed to provide any evidence that his
10 reasonable allergies were linked to mold or that mold was even present in any of the
11 cells where he was housed. (ECF No. 37 at 6.) The newspaper article that Plaintiff relies
12 on recounts mold issue in SDCC buildings in 2003 that were remediated and does not
13 support Plaintiff's claim of the existence of mold in cell units at SDCC between 2012 and
14 2013. The information in the newspaper article does not create a genuine issue of fact to
15 warrant reconsideration.

16 It is therefore ordered that Plaintiff's motion for reconsideration (ECF No. 45) is
17 denied.

18 DATED THIS 25th day of October 2017.
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20 MIRANDA M. DU
21 UNITED STATES DISTRICT JUDGE
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